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Court District of New Jersey

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
Caption in compliance with D.N.J. LBR 9004-1

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In re:

NEW ENGLAND MOTOR FREIGHT, INC.,
et al.,

Debtors.¹

Chapter 11

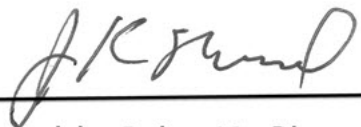
Case No. 19-12809 (JKS)

(Jointly Administered)

CONSENT ORDER

This consent order (the “Consent Order”) is made by and among VFS US LLC (“VFS US”), a creditor of the above-captioned debtor-in-possession (collectively, the “Debtors”), and the Official Committee of Unsecured Creditors appointed in the above-captioned chapter 11 cases (the “Committee” and, together

**DATED: September 3,
2019**



Honorable John K. Sherwood
United States Bankruptcy Court

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: New England Motor Freight, Inc. (7697); Eastern Freight Ways, Inc. (3461); NEMF World Transport, Inc. (2777); Apex Logistics, Inc. (5347); Jans Leasing Corp. (9009); Carrier Industries, Inc. (9223); Myar, LLC (4357); MyJon, LLC (7305); Hollywood Avenue Solar, LLC (2206); United Express Solar, LLC (1126); and NEMF Logistics, LLC (4666).

RECITALS

WHEREAS, on February 11, 2019 (the “Petition Date”), each of the above-captioned Debtors filed a voluntary petition for relief under chapter 11, title 11, United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”), thereby initiating the above-captioned chapter 11 cases (the “Chapter 11 Cases”). The Debtors, as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, are engaged in an orderly liquidation of their assets and wind-down of their businesses, toward the goal of preserving and maximizing the value of their assets for all creditors; and

WHEREAS, on or about February 25, 2019, the Office of the United States Trustee appointed the Committee; and

WHEREAS, on April 8, 2019, the Court entered the NEMF Auction Sale Order, which authorized the sale of Debtor New England Motor Freight’s (“NEMF”) “Equipment” (as defined in the NEMF Auction Sale Order) pursuant to an Engagement Agreement between the Debtors and Taylor and Martin, Inc. (“T&M”); and the Court having subsequently entered an Order in aid of the NEMF Auction Sale Order [Dkt. No. 629], which expanded the scope of the auctions by authorizing the sale of additional Equipment owned by Debtors other than NEMF; and

WHEREAS, from approximately late May 2019 through mid-July 2019, T&M sold the Equipment through auctions conducted at various locations (the “Auctions”); and

WHEREAS, a tractor owned by NEMF and financed by VFS US, identified on Schedule A to the Engagement Agreement at p.27 of 107 as a 2014 Mack Tractor, Model No. CXU613, VIN ending in 6568 (the “Collateral”), was not sold in the Auctions for various reasons including, upon information and belief, because unbeknownst to NEMF, the Mack Truck was

located at a dealership in Des Plaines, Illinois; and

WHEREAS, VFS US has a perfected security interest in the Collateral; and

WHEREAS, the Parties now desire for the Collateral to be released to VFS US and to be sold by VFS US through a private sale; and

WHEREAS, the Parties having engaged in settlement discussions and now desire to terminate the automatic stay as to the Collateral as provided in this Consent Order.

NOW, THEREFORE, the Parties agree as follows:

1. The foregoing recitals are incorporated herein by reference.
2. The automatic stay is hereby terminated as set forth herein pursuant to Section 362(d) of the Bankruptcy Code as to the Collateral.
3. VFS US shall be authorized to take immediate possession and control of the Collateral and liquidate the Collateral through commercially reasonable means and consistent with all applicable laws; however, the Debtors and the Committee waive notice of the sale, including the time and place of the sale. The Debtors are authorized to provide cooperation and assistance to VFS US as may be reasonably requested without cost to VFS US, unless specifically agreed to in writing between and/or among the Parties, including but not limited to the return of the original title to the Collateral, which is in the possession of T&M. After the Collateral has been sold, VFS US shall provide the Debtors and the Committee with a report of the sale result as soon as reasonably practicable. To the extent the sale conducted by VFS US result in net proceeds greater than VFS US's liens, all of the Debtors' and the Committee's rights with respect to those proceeds are hereby preserved.
4. This Consent Order may not be amended without the express written consent of all Parties hereto and entry by the Bankruptcy Court of an amended order approving same.

5. This Consent Order shall be binding upon the Parties hereto and upon all of their affiliates, assigns and successors, including without limitation any bankruptcy trustee that might be appointed in the future.

6. The Bankruptcy Court will retain jurisdiction over all matters related to this Consent Order.

IN WITNESS WHEREOF, the Parties hereto have executed this Consent Order as of the date and year first written below and each such Party consent to the form and manner of this Consent Order.

Dated: August 28, 2019

GIBBONS P.C.

By: /s/ Brett S. Theisen

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